

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 2:17-cr-337-MHT
)	[WO]
GILBERTO SANCHEZ)	

ORDER

Pending before the court is the United States’ Motion for Final Order of Forfeiture Doc. 126. In response to the motion, Maria Sanchez has filed a Claim of Interest (Doc. 130) asserting that she has a claim to \$24,502 that has been forfeited by Defendant Gilberto Sanchez. To support her claim, Ms. Sanchez “requests a reasonable period to conduct discovery, and then an evidentiary hearing where she will produce evidence of her superior interest in the property.” Doc. 130 at 1.

At this time, however, engaging in discovery relating to Ms. Sanchez’s interest in the property would be putting the cart before the horse. This is because, as the Government notes in its recent brief (Doc. 134), any third party making a claim to property associated with Defendant Sanchez’s forfeiture must have filed a petition asserting that interest “within thirty days of the final publication of notice or his receipt of notice . . . whichever is earlier.” 21 U.S.C. § 853(n)(2); *see United States v. Davenport*, 668 F.3d 1316, 1323 (11th Cir. 2012) (“The fact that [the claimant] filed a timely administrative claim regarding the currency did not mean that she was exempt from complying with the unconditional language of the criminal forfeiture statute, which requires the filing of a timely petition in an ancillary criminal forfeiture proceeding.”); *United States v. Marion*, 562 F.3d 1330,

1337 (11th Cir. 2009) (“If a third party chooses not to file a petition within the prescribed thirty days, however, she forfeits her interests in the property.”).

The Government has presented evidence that the final publication date for the notice of forfeiture of the \$24,502 at issue was September 28, 2018. *See* Doc. 134 at 2 (citing Doc. 111). Ms. Sanchez’ claim of interest is dated December 26, 2018—well more than 30 days after September 28, 2018—and was docketed by the court on January 8, 2019.

Accordingly, and in an effort to conserve the court’s and litigants’ resources, it is ORDERED that Ms. Sanchez shall file a reply in support of her Claim of Interest **no later than March 8, 2019** that either (1) admits her claim is untimely for the reasons set forth above, or (2) sets forth her legal and/or factual argument for why the claim is timely or otherwise valid. Upon receipt of this reply, the court will determine whether Ms. Sanchez has met this threshold determination such that discovery or an evidentiary hearing are warranted. Ms. Sanchez is cautioned that her failure to file a reply within the time period allowed will result in a recommendation that her claim be denied.

It is further ORDERED that the Clerk of the Court is DIRECTED to serve a copy of this Order on Maria Sanchez at the address provided in her Claim of Interest.

DONE on the 22nd day of February, 2019.



GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE